

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Lifeline and Link Up Reform and	)	WC Docket No. 11-42
Modernization	)	
	)	
Telecommunications Carriers Eligible for	)	WC Docket No. 09-197
Universal Service Support	)	
	)	
Connect America Fund	)	WC Docket No. 10-90

**COMMENTS OF THE  
OKLAHOMA TELEPHONE ASSOCIATION**

The Oklahoma Telephone Association (“OTA”) files these comments in support of the Petition for Waiver filed herein by United States Telecom Association (“USTelecom”). The OTA consists of thirty-five (35) rural telephone companies certificated and operating within the State of Oklahoma. The objectives of the OTA are to promote mutual cooperation with the public in order that it may receive more efficient and adequate telephone service throughout the State of Oklahoma and to promote, foster and protect the goals and quality of the telephone industry in the State of Oklahoma and throughout the United States. All of the OTA member companies are subject to the jurisdiction of the Oklahoma Corporation Commission (“OCC”). For the following reasons, OTA supports the limited-time waiver requested by USTelecom.

The OCC has taken an active and effective role in both designating ETCs for purposes of providing Lifeline services as well as enforcing state and federal rules applicable to the offering and provision of Lifeline services in Oklahoma. The OCC rules codified at OAC 165:55-23-12 define eligibility requirements for customers to qualify for federal Lifeline benefits. Those rules include programs to participants of certain low income programs administered by the State of

Oklahoma. Specifically, the OCC rules provide federal Lifeline eligibility based on the following:

“Lifeline eligibility requirements:

(a) In order to qualify for Lifeline Service Program, an applicant for Lifeline service must meet the requirements of 47 CFR §§ 54.400 through 54.415 and show that they:

- (1) Participate in or receive assistance or benefits, as certified by the Department of Human Services, under a program providing:
  - (A) Temporary Assistance to Needy Families;
  - (B) Supplemental Nutrition Assistance Program (SNAP) f/k/a Food Stamps, or Food Distribution Program on Indian Reservations, (FDPIR);
  - (C) Medical Assistance and/or Medicaid; or
  - (D) Supplemental Security Income.
- (2) Participate in Federal Public Housing Assistance;
- (3) Participate in Low Income Home Energy Assistance Programs;
- (4) Participate in or receive assistance or benefits, as certified by the State Department of Rehabilitation Services, under a program providing vocational rehabilitation, including aid to the hearing impaired; or,
- (5) Participate in or receive assistance or benefits, as certified by the Oklahoma Tax Commission, pursuant to the Sales Tax Relief Act, 68 O.S. § 5011 et seq.
- (6) Have income that does not exceed one hundred thirty-five percent (135%) of the Federal Poverty Guidelines;
- (7) Low-income individuals living on tribal lands may establish their income eligibility by certifying participation in one of the following Federal Assistance Programs:
  - (A) Bureau of Indian Affairs General Assistance,
  - (B) Tribally Administered Temporary Assistance for Needy Families (TANF),
  - (C) Head Start Programs (under income qualifying eligibility provision only),
  - (D) National School Lunch Program (free lunch program only).”

OAC 165:55-23-12.

The OCC rule also establishes the programs that determine a subscriber’s eligibility for state lifeline benefits under Oklahoma statutes. 17 O.S. § 139.105. Therefore, until the Commission’s revised eligibility criteria become effective, providers determine a subscriber’s eligibility for federal Lifeline and state lifeline in Oklahoma based upon the same eligibility criteria.

The Commission's revised eligibility criteria in its *Third Report and Order*<sup>1</sup> will create additional burdens for OTA members and other telecom providers in Oklahoma absent the limited-time waiver requested by USTelecom. Oklahoma has not created a centralized Lifeline eligibility database administered by either the OCC or any third party administrator. Instead, telecom providers are responsible for determining initial Lifeline eligibility for their subscribers and recertifying eligible subscribers in Oklahoma annually. Once the Commission's eligibility requirements become effective, telecom providers will have to make a separate determination of state and/or federal lifeline eligibility for each subscriber based on the program in which the subscriber participates. This additional review will increase the time to determine a subscriber's eligibility and will cause undue expense to OTA members, will increase the likelihood of mistakes in making eligibility determinations and will cause significant customer confusion.

***OCC rulemaking process is lengthy***

OCC rule changes are necessary to eliminate the disparity between Oklahoma's state eligibility criteria and the Commission's revised eligibility standards. Those rule changes cannot be accomplished prior to the effective date of the reforms in the *Third Report and Order*. The rules ETC's must follow in Oklahoma are set forth in OCC rules. The OCC rulemaking process to effectuate the changes necessary to eliminate the disparity has not yet begun. Once the OCC has approved rules eliminating the disparity the rules must be approved by the Oklahoma Legislature. The next session of the Oklahoma legislature does not begin until February 6, 2017. As a result, legislative approval of the OCC rules would not begin to be considered until after that date and could not become effective until several weeks after that. In addition, rule changes necessary to eliminate the disparity - even rules that qualify for emergency adoption under

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<sup>1</sup> Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund, WC Docket Nos. 11-42, 09-197, 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, ¶ 167, (rel. April 27, 2016) ("*Third Report and Order*").

Oklahoma law - cannot become effective until many weeks after the Commission's revised standards become effective. Therefore, the additional time requested by USTelecom would allow the OCC time to promulgate rules eliminating the disparity and would allow OTA member companies more time to educate state lawmakers and advise them of the impacts of maintaining two separate lists of eligibility criteria.

***Conflicting rules creates potential liability for OTA member companies***

The OTA member companies are required to abide by state law, including OCC rules, as well as FCC orders and rules. Without changes in state law to remove the disparity between Oklahoma's state eligibility criteria and the Commission's revised eligibility standards the OTA member companies face possible violation of either state and/or federal law. It is inappropriate to place the OTA member companies in that position. Granting the limited waiver requested by USTelecom would mitigate that dilemma.

Finally, the limited-time waiver would provide OTA member companies additional time to educate customers of the Commission's reforms and prepare them for changes. As discussed above, lifeline subscribers in Oklahoma have historically been eligible for state and federal lifeline benefits based on the subscriber's participation in the same list of low-income programs, including certain defined state programs. Eliminating those state programs from determination of federal Lifeline eligibility will create confusion for customers who are eligible for both state and federal lifeline benefits under such state programs today, especially if state programs continue to be applicable to state lifeline eligibility. And even if a subscriber may be eligible for federal Lifeline benefits under one of the retained eligibility criteria, but initially qualified under a state program, the effective date of the Commission's reforms does not provide subscribers sufficient time to seek out and apply for other programs to which they may qualify and which

may provide eligibility to the subscriber. Moreover, subscribers may have recertified eligibility for Lifeline benefits under one of the state programs that will no longer be eligible after December 2. OTA member companies will either have to recertify subscribers that were previously recertified or de-enroll subscribers that are no longer eligible after December 2. Under either scenario, OTA member companies will incur additional expense to recertify under the revised criteria and subscribers will be confused as to why they must recertify again. The limited time waiver requested by USTelecom will allow Lifeline providers and customer's additional time to smooth the transition to the eligibility criteria adopted in the *Third Report and Order*.

For the above reasons and for the reasons contained in USTelecom's Petition for Waiver, OTA supports the limited time waiver requested by USTelecom and requests that the Commission grant the same to provide sufficient time to achieve legislative and rule changes in Oklahoma and to educate customers of the changes.

Respectfully submitted,

OKLAHOMA TELEPHONE ASSOCIATION

By: 

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